

CALIFORNIA COMMISSION ON DISABILITY ACCESS FULL COMMISSION MEETING MINUTES

January 6, 2016

1. CALL TO ORDER

Chair Guy Leemhuis called the meeting of the full California Commission on Disability Access (CCDA or Commission) to order at 10:00 a.m. at the California Victim Compensation and Government Claims Board, 400 R Street, First Floor Board Room, Sacramento, California 95811.

Chair Leemhuis reviewed the meeting protocols.

ROLL CALL

Commissioners Present:

Guy Leemhuis, Chair
Laurie Cohen Yoo (*as a member of the public*)
Chris Downey
Lillibeth Navarro
Celia McGuinness
Michael Paravagna
Betty Wilson
Attorney General Kamala D. Harris
by Anthony Seferian
Chester "Chet" Widom, State Architect
by Ida Clair

Commissioners Absent:

Douglas Wiele, Vice Chair
Steve Dolim
Scott Hauge
Tony Thurmond – Assembly Member
Chad Mayes – Assembly Member
Richard Roth – Senate Member

Staff Present:

Angela Jemmott, Executive Director
Fajola Jackson, Office Administrator

Also Present:

Ida Clair, Access Program Senior Architect and Technical Administrator of CASp,
Division of State Architect
Rex Himes, President and CEO, California Business Properties Association
Irene Walela, Deputy Director of the Independent Living and Community Access
Division, Department of Rehabilitation
René Webster-Hawkins, Executive Director, California Pollution Control Financing
Authority
Joe Xavier, Director, Department of Rehabilitation

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

Staff Member Jackson called the roll. She stated that a quorum was not present.

Chair Leemhuis stated that any Action Items would be tabled until the next meeting.

PLEDGE OF ALLEGIANCE

Chair Leemhuis led the Commission in the Pledge of Allegiance.

HOUSEKEEPING ITEMS

Chair Leemhuis made suggestions for using the microphones and reviewed meeting protocols.

2. APPROVAL OF MEETING MINUTES (October 21, 2015) – ACTION

(Tabled until the next meeting)

3. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

There were no questions or comments from the public.

4. PRESENTATION FROM THE CALIFORNIA BUSINESS PROPERTIES ASSOCIATION

Rex Himes, President and CEO of the California Business Properties Association (CBPA), spoke to the Commission. He spoke about the history of the CBPA's participation in disability access and gave his perspective on the importance of the CCDA.

- The CBPA was founded in 1972 to represent commercial real estate interests in California.
- Two billion square feet of leasable space in California is in buildings constructed before 1980 – before the Americans with Disabilities Act (ADA). These spaces are often owned by small families who may not have the resources to make required changes.
- CBPA participated in the formation of the Certified Access Specialist program (CAsp).
- Mr. Himes felt that the CCDA is not receiving the financial support to be able to achieve its goals.
- He considered the CCDA's Strategic Plan an excellent one.
- He looked forward to working with the CCDA in the future as a partner.

Commissioner Questions and Discussion

Commissioner Paravagna asked how the CBPA and the CCDA might work together better. Mr. Himes answered that both have worked to get additional funds committed for the CCDA; they will both continue. The CBPA also supported Senator Roth's bill to get a tax credit program for small businesses.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

Commissioner McGuiness asked how many square feet are represented by businesses having 25 or fewer employees. Mr. Himes responded that the CBPA hopes to figure that out.

Commissioner Yoo asked about ways to improve the communication regarding CASp for small businesses. Mr. Himes replied that CBPA has been doing a weekly email alert regarding issues including access. He also works with national organizations such as the Building Owners and Managers Association and the International Council of Shopping Centers.

Commissioner Wilson asked for any suggestions on ways for the CBPA to partner with the CCDA in getting the word out to the media and holding a conference or educational event. Mr. Himes answered that holding such an event is a great idea; CBPA would bring in its member organizations as well.

Commissioner McGuiness asked if any surveys have been taken among CBPA members regarding difficulties creating access or removing barriers. Mr. Himes responded that a significant hurdle has always been that government itself is somewhat lackadaisical regarding accessibility standards when new buildings are going up and remodels are being done.

Commissioner Wilson commented that the City of Los Angeles Department of Disability and the Commission are very much aware of this problem and are striving to deal with it.

5. PRESENTATION(S) – GOVERNMENT PARTNERS

- Department of Rehabilitation

Joe Xavier, Department of Rehabilitation (DOR) Director, updated the Commission on high-level initiatives.

- A DOR blog provides consumers' experiences, in their own words, with employment and independence as they move back into society. It is called NoticeAbilities.com.
- The Promise project is a research study that is looking at funding of \$55 million over five years to do interventions on students between the ages of 14 and 16. 3,078 students are currently enrolled.
- The Workforce Innovation and Opportunity Act is the federal rehab statute that reauthorizes and sends the funding to California for the work that DOR does.
 - A new line item is the Pre-Employment Transition Services for Youth with Disabilities. The DOR considers CCDA to be a link – advocating and informing – to many of the DOR's business partners.
 - A number of changes have occurred with the reauthorization around the Independent Living community; they have moved from the Department of Education to the Department of Health and Human Services.

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES

- DOR has been busy over the last 18 months engaging with communities in many settings and forums to monitor implementation. The rulemaking process is undergoing changes.
- Competitive integrative employment in California is addressed by an initiative that brings together an effort for real pay for real work in the real world; it focuses on employment for individuals with intellectual and developmental disabilities.
- DOR, the Department of Human Resources, and the State Personnel Board undertook an initiative about a year ago to increase the number of individuals with disabilities within the state's workforce.
- The Visitability and Universal Design workgroup was established by the Department of Housing. It is a student committee to review draft code changes.

Irene Walela, Deputy Director of the Independent Living and Community Access Division, spoke about accomplishments and initiatives in the Disability Access Services section.

- In 2015 the Disability Access Services section made an agreement with the State Lottery in which over 1,000 retailers were visited and surveyed. The State Lottery has made a commitment to ensuring physical access to all of its lottery retail sites. During the coming year, 1,100 sites will be visited.
- Disability Access Services Employment produces DVDs available in hardcopy and on YouTube. These DVDs have had more than 10,000 hits. The DVDs are also used by businesses as well as state and local governments.
- The division sponsors classes: Principles of Creating Accessible Documents and Principles of Creating Accessible Forms.
- The division hosts and presents the Online Accessibility Summit, a three-day event conducted virtually.
- For the last two years the division has given presentations at the International Technology and Disability Conference.
- Almost 2,000 individuals participated in these training events and presentations in the past year.
- The division will continue a partnership with the Secretary of State doing training and technical assistance on polling place accessibility for county election officials.
- The division will be working with CCDA and the Division of State Architect (DSA) to collaborate with the State Treasurer's Office on the ADA financing loan program for small businesses.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

- Other partnerships will continue with the Department of General Services (DGS), Fair Employment and Housing, the Governor's Office of Business and Economic Development, and the California Network of Learning Professionals.

Commissioner Questions and Discussion

Commissioner Navarro commented that maintaining power wheelchairs can be a source of contention with HMOs. We need a grant program with the help of DOR. Mr. Xavier responded that he has met with his counterparts at the Department of Health Care Services, Aging, and Managed Care, to look at whether we are fully leveraging opportunities that exist. They are also looking for opportunities to inform and influence existing codes and programs to improve supports for individuals with disabilities, for their employment and independence.

Commissioner McGuiness asked about the lottery retailers survey program. Ms. Walela responded that the survey determines whether accessibility is already in place, and if not, it offers solutions. It is an interactive process partially based on compliance – visits are only announced shortly beforehand. The division is approaching other opportunities such as one with DGS having to do with the accessibility of hotels.

- Division of State Architect

Ida Clair, Senior Architect with the Access program and the Technical Administrator of the CASp program, gave updates.

- They are presently in regulation rulemaking process, to establish professional standards for CASp and for enforcing disciplinary actions. They have gone through two Public Comment periods and held a public hearing last November 10. They submitted a rulemaking package on November 23 to the Office of Administrative Law.
- They are anticipating an additional rulemaking this year.
- A CASp newsletter is published three times a year and is available on the website.
- Ms. Clair teaches a five-hour CASp class, offered two months before each examination. The examination is offered three times a year.
- A CASp code discussion group meets monthly via teleconference. It offers Continuing Education credit.
- They have given presentations to businesses, Chambers of Commerce, and industry groups to promote CASp.
- They are in the midst of 2016 Accessibility Code rulemaking.

Commissioner Questions and Discussion

Commissioner Paravagna asked for an overview of CASp quality assurance and discipline of members. Ms. Clair responded that SB 1608 and corresponding Civil Code

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

55.51 introduced a report aspect to CASp that has specific requirements. Many CASp inspectors are design professionals; through their licensure they also have the privilege of responsible control. Many CASps would extend that privilege to their staff – their licensure allows them to oversee work. The Civil Code now allows only CASps to perform the work.

Commissioner Paravagna asked if steps can be taken when a CASp fails to meet prescribed standards. Ms. Clair replied that there is a disciplinary program – the website has a complaint form for CASps doing substandard work or sending someone else to do the work. Disciplinary action has been taken over the past year on some individuals.

Commissioner Paravagna asked about the capacity of the CASp when a business person requests a site survey. Ms. Clair answered that currently there are about 675 certified CASps. About 50% of those work for a jurisdiction: a building department or enforcing agency. Many agencies restrict their CASps from performing work outside their employment. Many jurisdictional CASps can be independent CASps with a different jurisdiction.

Commissioner Navarro asked if there is a way to ensure that court testimony is monitored to reflect the interest of the ADA. Ms. Clair responded that if a CASp offered testimony that showed gross negligence of the ADA, it would have to be filed to the DSA for them to know about it. There isn't any other way to monitor CASp performance of services.

Commissioner Downey asked if there is a good geographical distribution of CASps across the state's different jurisdictions, and whether jurisdictions have a requirement to have CASps on staff in their building departments. Ms. Clair replied that with the recent uptick in construction, many architects and engineers who are CASps perform other work as well. There is more of a lack of CASps in the Fresno area and the northern areas of Redding, Eureka, and so on, than in the Bay Area, the Sacramento area, and Southern California. Ms. Clair is now traveling to the areas lacking CASps to teach classes.

- Department of Justice

Commissioner Tony Seferian stated that the Attorney General has been an active participant as an ex officio member of the CCDA since its establishment. The Attorney General's Office strongly supports the mission of the CCDA to promote disability access in California through collaboration and dialogue with stakeholders, which include the disability and business communities as well as different levels of government.

The Attorney General's Civil Rights Enforcement section in particular is committed to strong and vigorous enforcement of federal and state civil rights laws. That section addresses a broad array of civil rights issues.

Commissioner Questions and Discussion

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

Commissioner Navarro noted that CCDA has focused on accessibility in the areas of environment, communication and transportation. Yet there are also programmatic issues that people with disabilities encounter in the areas of health care and personal assistance services. Does the Department of Justice (DOJ) receive any complaints in those areas? Commissioner Seferian answered that the Attorney General's office does receive complaints and does conduct investigations regarding civil rights issues, and is also involved in preparing and filing briefs in appellate court on issues involving discrimination. DOJ has worked on legislation and provided representation in housing discrimination cases.

Chair Leemhuis made note of the importance of staying in communication with CCDA's government partners, as we have many overlapping areas of interest as defined in our Missions Statement. The government partners are important as CCDA implements its Strategic Plan and builds Commission infrastructure.

6. STANDING COMMITTEE UPDATES

i. Education and Outreach

Commissioner Wilson stated that this year she is hoping to develop a stronger committee structure that will allow an increase in the budget.

She hopes to develop a measurement tool for the Commission's Checklist. Executive Director Jemmott commented that the committee seeks to ensure that the Checklist is a successful tool and is being used throughout the state – then we can claim success.

Commissioner Wilson suggested requesting partners such as the California Building Officials (CALBO) to send out a survey soliciting feedback on the utility of the Guide. Another idea would be to form a focus group comprised of Building Inspectors throughout the state to discuss the use of the Guide by their coworkers.

Commissioner Wilson continued that committee members have reviewed the CCDA information gathering tool that is the survey, and have validated the strength of its results. The Checklist Committee is completing the creation of the tool for the small businesses.

However, the biggest challenge is the lack of actual funding. The committee is looking at several very interesting and useful activities for 2016 that can make it a very successful year for achieving these goals. An increase in the budget will allow this. Commissioner Wilson mentioned that there are a number of possibilities for fundraising.

She continued that Commissioner Paravagna has a drafted a glossary of terms that can be added to the website. It needs to be reviewed by committee members and possibly Commissioners in order to be ready for the next committee meeting.

Commissioner Wilson mentioned the ongoing controversy of placard abuse. Every region in the state has a different set of issues. The committee means to take a look at this and come up with suggestions. Commissioner Wilson requested to address this

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES

issue at the next full Board meeting, with the help of staff to provide up-to-date information on the four regions of the state.

To get the word out about what DDCA does, we need media involvement – we need to get a media spokesperson (possibly a well-known actor or athlete).

Commissioner Wilson mentioned that the city of Los Angeles will be hosting an international conference on disability in October 2016. The United Nations has declared that every member country must start making itself accessible to people with disabilities – architectural access as well as program access. Los Angeles has been looked upon as a model of accessibility. The new field of wearable technology will be included at the conference.

Commissioner Questions and Discussion

Commissioner Navarro asked if the United Nations will be a sponsor of the conference. Commissioner Wilson replied that they will not, but they are promoting the concept of universal access.

ii. Research and Analysis Data Collection Project

Chair Leemhuis reported that Commissioner Yoo had to leave the meeting. He read from an update that she had provided.

- The committee has worked on the Case Resolution form and the Case Filing form, and were pleased to receive input from two advocacy groups. As of yet they have not been able to implement the forms because the necessary legislation was not passed.
- The Case Resolution Form will be further streamlined.
- At the upcoming meeting, the committee will look at garnering data from the Case Reporting form, and analyzing and distributing it.

iii. Legislative Committee

Commissioner Paravagna reported at its last meeting, the committee discussed the following.

- When the committee puts its concepts forward to talk about what it can do, it needs to include budget items.
- The committee is considering holding a town hall-style meeting with members of the disability community and business community present. Through this facilitated process, the two could identify mutually acceptable solutions to outstanding problems.
- The committee has looked at insurance questions in terms of disability regarding worker's compensation history and age.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

- The committee has looked at outstanding issues of parking placards. After hearing the DMV's presentation to the full Commission, the committee is seeking more information before recommending policies (which may include technology).
- The committee is following CALBO's suggestion that contractors be subject to mandatory training.
- Commissioner Paravagna and Executive Director Jemmott met with Renee Webster-Hawkins regarding the implementation of AB 1230.

7. Reforming the Checklist Committee – Update

(Tabled until the next meeting)

8. EXECUTIVE DIRECTOR ANGELA JEMMOTT

i. Database Collection

Executive Director Jemmott stated that the Commission's newest database collection responsibility is Case Resolution data. With that, a number of specific items were mandated for CCDA to collect; an information form will also be created for the data collection.

Executive Director Jemmott shared the October-December 2015 Case Resolution data numbers. She stated that about 99% of those parties asked to submit the form have done so; about 66% of those have completed all the items.

CCDA is collecting and managing a steady number of case demands from federal and state case filings, comparable to 2013 and 2014 numbers. Executive Director Jemmott presented the totals excepting the month of December.

The top three complaints/demands are van accessible parking, parking signage, and parking lot number of accessible spaces.

Commissioner McGuiness stressed the importance of having the Legislature provide funding for data collection and analysis software. Executive Director Jemmott agreed – staff now performs the tasks manually. Commissioner McGuiness suspected that the kinds of violations that actually drive litigations are restrooms; if CCDA had the ability to manipulate the data, this could be shown.

i. CCDA Annual Reporting

Executive Director Jemmott stated that the Annual Report is due January 31. She requested committee Chairs to coordinate their future goals and objectives.

ii. BCP—update

The Governor will be producing the BCP on January 10. CCDA has requested additional support.

iii. Meeting Schedule Updated

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

To reduce the travel costs necessary for full Commission meetings, the next three meetings are proposed as videolinks. To accommodate this, the April meeting date was moved to the 14th and the July meeting date was moved to the 18th.

Commissioner Wilson asked about the possibility of moving the October meeting date because of potential involvement in the Los Angeles international conference. Chair Leemhuis responded that keeping the budget constraints in mind, the first priority would be Strategic Plan goals.

iv. Housekeeping – Administrative Refreshers

Executive Director Jemmott reminded the Commissioners that as we are reforming the Checklist Committee, the mechanics of meetings are still ruled by Bagley-Keene – including set-up and meeting notice timing.

She reminded the Commissioners that the annual 700s are mandated by law and should be submitted as soon as possible after the notices are received.

9. PRESENTATION – DEVELOPMENT OF THE TECHNICAL LANGUAGE OF AB 1230

René Webster-Hawkins, Executive Director of the California Pollution Control Financing Authority (CPCFA), gave a presentation for the Commissioners.

- CPCFA's mission is to stimulate environmental cleanup, economic development, and job growth throughout the state.
- CPCFA issues bonds for private businesses on behalf of private activities that support the hauling and recycling of waste.
- CPCFA has used the funds accrued from its administrative fees to set up the California Capital Access Program (CalCAP), in which CPCFA partners with private lenders who make loans to small businesses; CPCFA provides the private lenders a small deposit on each loan that they enroll as a way of ensuring themselves against the risk of loss.
- Each lender has a Loan Loss Reserve account that grows as the lender continues to enroll loans into the fund. As long as there are funds in the lender's Loan Loss Reserve account, any loss can be covered. This encourages financial institutions to make loans to small businesses that fall just outside of their conventional underwriting standards. The program is very good for start-up businesses.
- Since 1994, CalCAP's lenders have loaned over \$2.2 billion for a total of 12,000 loans – a significant injection of capital into the small business economy in California.
- The program is right-sized for microloans and microbusinesses. The average loan size enrolled into CalCAP this year was about \$50,000. The loans created 793 new jobs in California and retained over 7,000.

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES

- CalCAP's main programs are funded by the U.S. Treasury as a result of Recovery Act legislation, the state small business credit initiative.
- CalCAP also runs a program on behalf of the Air Resources Board: it supports small business loans to owners and operators of heavy-duty diesel trucks. Since 2010 it has expended over \$65 million.
- Last summer, Assemblymember Jimmy Gomez supported legislation to provide support for small businesses being hit by demand letters and/or litigation for accessibility issues. The eventual result was that CalCAP is now able to fund a program uniquely tailored to small businesses seeking to do tenant improvements to comply with the ADA.
- The legislation – AB 1230 – is fairly specific in the types of costs to which it will apply.
 - It will track the usual CalCAP rules and eligibility criteria with a few exceptions.
 - It will include startups and nonprofits.
 - There are statutory prohibitions against some business: those primarily established for retail alcohol sales, gambling, illegal activities, tobacco sales, gun sales, and adult entertainment.
- Ms. Webster-Hawkins gave the definition of an *eligible project* under AB 1230.
- The coverage of the loan is limited to five years, although the loan itself can be for a greater term.
- The loan proceeds are limited to an existing facility under 10,000 feet. The business must have no more than 15 full-time employees.
- With the statutory definitions now set, the job of CPCFA is to start work on program development and implementation, including hiring the necessary staff.
- The next active program development step is stakeholder engagement. In addition to the CCDA, the DOR and the DSA will be key partners and mentors. CPCFA will also be reaching out to its lenders, who can advise as to the perceived risk associated with the program.
- A hallmark of CPCFA programs is a focus on the financing – helping business owners pencil out their project plans. Policy issues can be vetted and approved by other regulatory agencies.
- During the outreach and engagement process, CalCAP will seek to make the qualifying criteria as objective as possible.
- The next process will be rulemaking. CalCAP hopes to accelerate program implementation by utilizing its emergency rulemaking authority.

Commissioner Questions and Discussion

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

Chair Leemhuis asked about any federal programs that would provide insurance to a CalCAP lender for a defaulted loan. Ms. Webster-Hawkins answered that the money received from the U.S. Treasury under the State Small Business Credit Initiative is the primary way that the federal government is incentivizing credit enhancements for private lenders.

Commissioner McGuiness asked about an anticipated start date for when businesses can apply. Ms. Webster-Hawkins replied that she hoped for next summer.

Executive Director Jemmott thanked Ms. Webster-Hawkins for contacting the CCDA and for having the sensitivity to recognize the stakeholders – a number of people are very interested in helping shape the bill so that all can access this loan.

Commissioner Paravagna also thanked Ms. Webster-Hawkins for coming in to speak.

Chair Leemhuis expressed the hope that Ms. Webster-Hawkins would come in again for an update on how the legislation is going, and to see if there are further ways to collaborate with the CCDA.

10. YEAR TO DATE BUDGET – UPDATE

Executive Director Jemmott stated that a number of accounts are past due, because the new system is not able to handle them correctly. Staff has even lost Internet services three times because of non-payment of invoices. CCDA is not alone – a number of other agencies are past due because of the transition.

CCDA has a revolving fund that staff would like to tap into in order to stay operational at minimum. Staff has contacted the vendors and most understand the impact of the new system.

Executive Director Jemmott stated that the Budget Report shows the numbers that have gone through the financial system to date, but are not necessarily paid.

Commissioner Questions and Discussion

Commissioner Paravagna asked when the invoices might be processed. Executive Director Jemmott responded that they are paid almost on a case-by-case basis. Certified small businesses can begin charging late fees after 45 days; Executive Director Jemmott has not seen any such charges yet.

11. COMMUNITY UPDATES/COMMENTS FROM COMMISSION MEMBERS

Commissioner McGuiness reported that she had given a talk recently to the San Mateo Bar Association, directed at attorneys who represent businesses owners. The talk concerned changes to ADA law and CCDA's actions; the attorneys were quite interested in the topics.

Commissioner Paravagna reported that he has been giving his coworkers the CCDA Checklist, suggesting that they use it in their examination of projects under planning and construction. The Checklist has received an enthusiastic response.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
JANUARY 6, 2016 MEETING MINUTES**

Commissioner Navarro reported a community meeting last month to prepare for El Niño. A representative from the City Department of Disability was involved in the planning. Another topic of interest, in light of the shooting in San Bernardino, is training in how to protect oneself in violent situations in the workplace and at home – how does one drop to the floor from a chair? In the construction of a worksite, where can we protect ourselves? Accessibility to the environment is very serious work.

Chair Leemhuis stated that he, Executive Director Jemmott, Vice-Chair Wiele, and Commissioner Navarro had met with Mr. Himes to explore ways to seek funding, both through the Legislature and through the private sector, in order to implement the Strategic Plan. The next big focus will be getting an audience with Legislative members who are on the Commission. Chair Leemhuis hoped to meet with all three members during January and February. CCDA has been making inroads to the Governor's Office as well; Commissioners are hoping to meet with the Governor, which historically has never happened.

12. FUTURE AGENDA ITEMS

There were no future agenda items proposed by Commissioners or the public.

13. ADJOURN

Chair Leemhuis adjourned the meeting at 2:12 p.m.